

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DISABILITY ADVOCATES, INC.,

Plaintiff,

- against -

ORDER

CV 2003-3209 (NGG) (MDG)

GEORGE PATAKI, et al.,

Defendants.

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This Order sets forth the rulings made at a conference on January 6, 2006. The New York City Human Resources Administration ("HRA") must comply with two subpoenas served by plaintiffs directing, inter alia, production of certain records concerning two named residents of Adult Homes, as well as records pertaining to other residents for the period from January 1, 2000 to the present. HRA must produce all the documents covered by the subpoenas by February 16, 2006, but must make production on a rolling basis every two weeks. This ruling is without prejudice to the right of HRA to object to disclosure of specific records based on federal law protecting the confidentiality of substance abuse treatment records.

As directed by the Court, counsel for HRA has submitted a letter setting forth the statutes upon which HRA may rely in objecting to disclosure. This Court notes that HRA has indicated that it may object to production also on the basis of state privacy laws protecting the confidentiality of HIV-related information concerning persons covered by the subpoenas. As this

Court previously noted, although this Court will "afford deference to state-created privileges, such privileges are construed narrowly and must yield when outweighed by a federal interest in presenting relevant information to a trier of fact." United States v. One Parcel of Property, 930 F.2d 139, 151 (2d Cir. 1991) (per curiam). Given the protective order in place, this Court cautions HRA to consider whether the interest in confidentiality outweighs the need for the information in the case before interposing any objection under state law.

SO ORDERED.

Dated: Brooklyn, New York
January 9, 2006

/s/_____
MARILYN D. GO
UNITED STATES MAGISTRATE JUDGE